

# **MOTOR MONDAY**



**Monday, August 16, 2021**

## **JURY SELECTION: IT IS THE TRIAL**

Presented by:

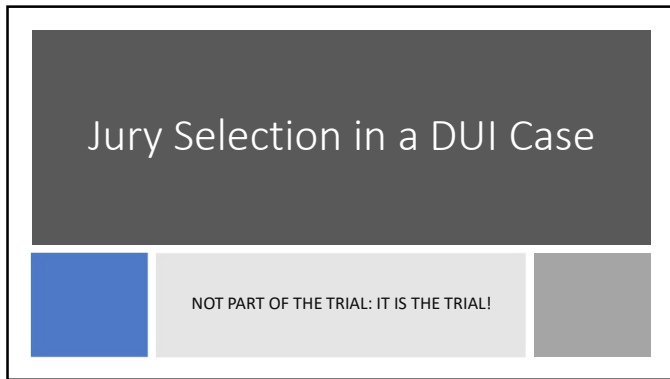
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Distributed by:

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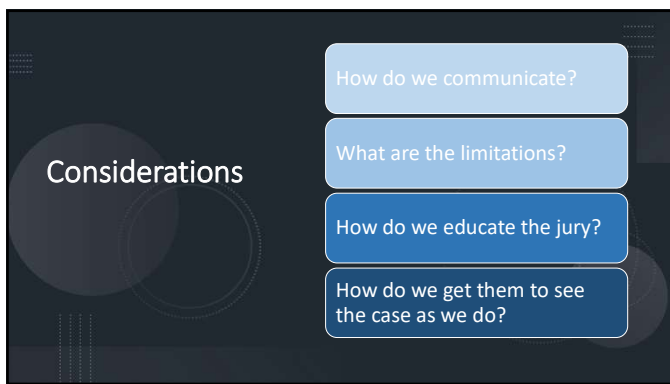
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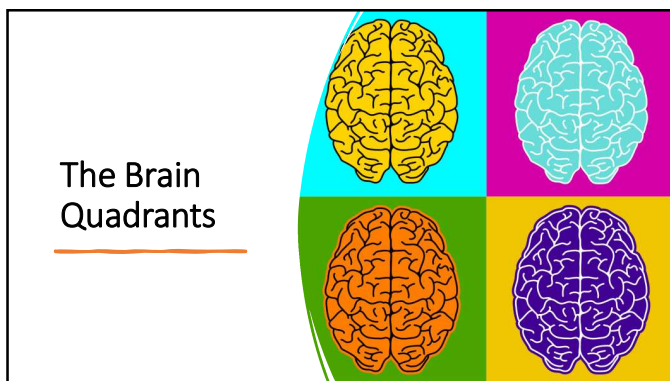
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## Brain Quadrants



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### Quadrant A

- Concrete thinkers
- Logical
- Precise



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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Prefer:             <ul style="list-style-type: none"> <li>• "To the point" information</li> <li>• Proof of validity</li> <li>• Working alone</li> <li>• Lectures</li> <li>• Textbook reading</li> <li>• Lists</li> <li>• Numbers and data sets</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• Dislike:             <ul style="list-style-type: none"> <li>• Being disturbed</li> <li>• Listening on tape</li> </ul> </li> <li>• Struggle with:             <ul style="list-style-type: none"> <li>• Expressing emotions</li> <li>• Vague or imprecise concepts</li> </ul> </li> </ul> |
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## Quadrant B

- Linear
- Organized
- Consistent
- Timely
- Follow rules



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- Prefer:
  - Working in groups
  - A clear beginning, middle and end
  - Planning things out
  - Details
  - Follow up
- Like:
  - Examples
  - Practical applications
- Dislike:
  - Ambiguities
  - Risk
  - Unclear expectations

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## Quadrant C

- Emotional
- They make decisions because they want to, rather than because they should
- Want to please others
- Expressive
- Good listeners
- Team players



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<ul style="list-style-type: none"> <li>• Prefer:             <ul style="list-style-type: none"> <li>• Friendly, emotional experiences</li> <li>• Interaction</li> <li>• Personal relationships with teachers</li> <li>• Expressing and sharing feelings</li> <li>• Stories</li> <li>• Group discussion</li> <li>• Group activities</li> <li>• Tactile activities</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Dislike             <ul style="list-style-type: none"> <li>• Lectures</li> <li>• Lack of interaction or participation</li> <li>• Data</li> <li>• Analysis</li> <li>• Lists</li> </ul> </li> </ul>
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### Quadrant D

- Leaders
- Global ("Big Picture") thinkers
- Aggressive
- Impulsive
- Spontaneous and fun
- Smallest group

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<ul style="list-style-type: none"> <li>• Prefer:             <ul style="list-style-type: none"> <li>• Overviews</li> <li>• Hands on experiences</li> <li>• Freedom to explore</li> <li>• Variety of content</li> <li>• Challenges</li> <li>• Pictures</li> <li>• Metaphors</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Dislike:             <ul style="list-style-type: none"> <li>• Structure</li> <li>• Deadlines</li> <li>• Lists</li> <li>• Lectures</li> <li>• Details</li> </ul> </li> </ul>
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## What Are Our Limitations?

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### Limitations You Can't Control



The manner in which the judge  
allows you to proceed



The amount of time you have  
to select your jury

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### Limitations You Can Control

- What do we REALLY want to say?
  - Will you find them guilty?
  - Doesn't this make you mad?
- This guy could have killed your family!
  - If you acquit he will do it again!

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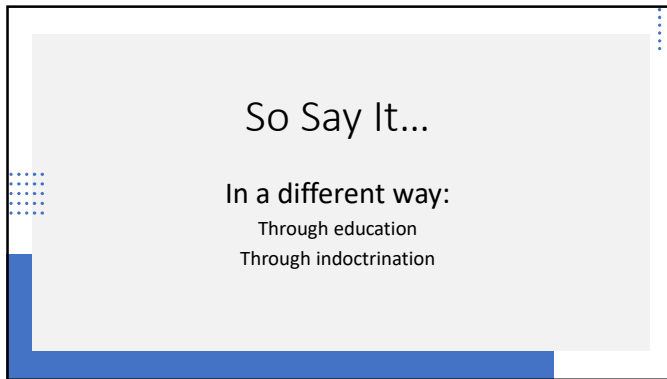
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So Say It...

In a different way:

- Through education
- Through indoctrination

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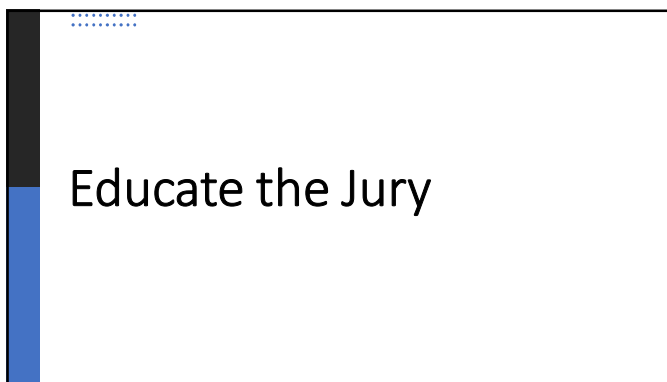
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Educate the Jury

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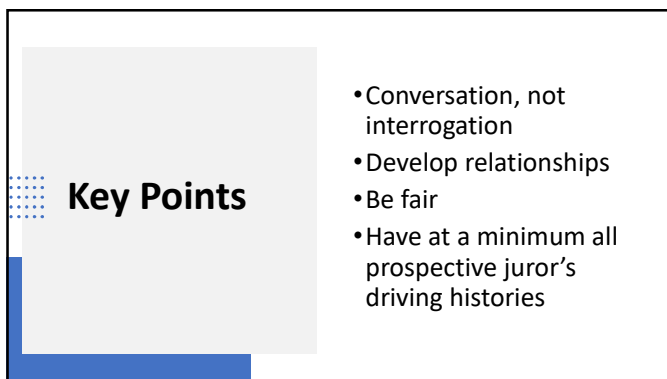
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**Key Points**

- Conversation, not interrogation
- Develop relationships
- Be fair
- Have at a minimum all prospective juror's driving histories

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## Preparing for Jury Selection

Chart	Familiarize	Checklist	Help
<ul style="list-style-type: none"> <li>Use a personal jury seating chart or one provided by the clerk.</li> </ul>	<ul style="list-style-type: none"> <li>Familiarize yourself with the Judge's particular process.</li> </ul>	<ul style="list-style-type: none"> <li>Create a quick and easy to read outline or checklist for your topics.</li> </ul>	<ul style="list-style-type: none"> <li>If you have an LEO as a State's Representative, make use of them.</li> </ul>

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## Conversation Not Interrogation

Start	Watch	Converse	Calm
<ul style="list-style-type: none"> <li>Start with questions that relax them</li> </ul>	<ul style="list-style-type: none"> <li>Watch them for signs of discomfort</li> </ul>	<ul style="list-style-type: none"> <li>Converse with them as you would in a social setting</li> </ul>	<ul style="list-style-type: none"> <li>Jurors are anxious: calm them</li> </ul>

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## Calm Fears

- People are afraid of the unknown, so...
  - Tell them who you are
  - Tell them who the other folks in the courtroom are
  - Tell them what the process is and what to expect



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“Do You Know” Questions...

Me? Anyone in my office? Elected DA?

Defendant?

Defense attorney? His firm?

Officer?

Witnesses?

Courtroom personnel?

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Softball Questions

In what part of the county do you live?

Married? Children?

Work outside the home? Spouse/ domestic partner's work?

Know any other jurors on panel?

Ever been on a jury?

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If someone says they work or worked as a truck driver.....

Long haul or short?

Have you driven up on a crash?

Were people injured?

Have you seen drivers on the road that were driving erratically?

Let the juror be the teacher!

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## Circle Back over and over and over

Does the fact that the defense attorney represented you in your divorce put you in a position where you can't be fair to both sides?

Does the fact that this happened in front of your children's school put you in a position where you can't be fair to both sides?

Does the fact that your ex-boyfriend was an alcoholic put you in a position where you can't be fair to both sides?

Does the fact that your son is a law enforcement officer and you find them to be honest put you in a position where you can't be fair to both sides?

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Use their  
answers to  
highlight  
what you  
need!

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## Wrap-up Questions

Is there any reason  
you can't sit in  
judgment of another  
person's conduct?

Is there anything you  
thought of while I  
have been talking that  
you think we need to  
know or address?

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### Educate With Common Sense

Jurors' reliance on driving



What does driving require in terms of skill?

- Mental and physical faculties – driving is multi-tasking
- SFSTs and multi-tasking

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### Educate on Burdens

Burden of Proof

Explain what it ISN'T

Burden of Law

Use pattern jury instructions

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### Circumstantial Evidence

01

Explain the pattern instruction

02

Use analogy

03

Make sure they understand the value

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## Bias

- Ask questions to:
  - Reveal bias to law enforcement
  - Reveal bias to governmental operations
  - Reveal bias to the law
- Converse about unfairness of bias
  - Use analogy to demonstrate



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## Be Prepared....

Issues regarding race and interaction with law enforcement must be addressed

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## Discuss Danger

You can't say this person put the juror in danger

BUT: you can imply it by discussing the danger to society as a whole

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## Relate to Personal Experience



Personal impact from impaired drivers



Skills required to drive



Observations of bad driving/ involvement in a crash



Personal experiences viewing impaired people

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## If you feel different you are different

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Discuss why people use alcohol, prescription drugs, and illegal drugs

2

Engage jurors in conversation about their knowledge and experiences

3

Always remember: it's not the drug it's the drive!

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## Juror Prior Convictions

Uncomfortable question

Have a jury book

Do you ask them?

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## Awkward Responses

Opportunities in Disguise

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"I was wrongfully convicted years ago. The justice system sucks."

***Example***

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"I think you should be 100% convinced. Anything less is unfair."

***Example***

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"I don't believe anyone should ever drive drunk. If they do they should go to prison for a long time."

**Example**

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"I had a family member killed by an impaired driver".  
(bursts into tears)

**Example**

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Teach Them Your Case



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## Core Issue: Operation

Crash cases: explain how  
“operation” is proven

Educate on circumstantial  
evidence: use analogy

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## Core issue: Vehicle

- Is it a regular passenger vehicle?
- Commercial vehicle?
- Moped or motorcycle?
- Bicycle?
- Four- wheeler?
- Other?



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## Core issue: Street, Highway, or Public Vehicular Area

Where is the crime scene?

Parking lots? Closed store? Dirt road?

Crash cases: is the vehicle off the road?

Do not presume they will not over-think  
this: they will if there is any question

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## Core Issue Phase: Impairment

The crime is not the drug: it's the drive. Do not vilify the drug of choice.

Discuss what drunk / impairment means to each juror

Point out that everyone is affected by alcohol or drugs differently

Make them say they will follow the law!

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## Core Issue Phase: Impairment

What does impairment look like to you?

Discuss tolerance

Discuss addiction

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## Alcohol cases:

HAMMER THE  
EIGHT!



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## Drugs other than alcohol

Ads for medications explaining side effects

Warnings on prescription bottles

Illegal drugs

Combinations of drugs

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### Core Issue: Refusal

**Explain** implied consent

**Explain** the importance

**Explain** what a refusal means

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### Educate on New Concepts

SFSTs

HGN

Blood Testing

DRE

Collision  
Reconstruction

Toxicology

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## On to the facts....

01

Where did it happen?

02

What happened?

03

How was the investigation done?

04

Are there any problems?

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## Where did it happen?

Is there anything about the fact that the defendant was driving while impaired/ had a crash while impaired that is

Near your home	Near the local school	Near your work	On a road you frequently travel	Etc.
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That puts you in a position where you can't be fair to both sides?

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## What happened?

- Is there anything about the fact that
  - Children were in the car
  - Someone was injured
  - Property was damaged
  - The defendant was impaired on a prescription
  - The defendant was asleep in the lane of travel
- That puts you in a position that you can't be fair to both sides?

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## The Investigation

- Was there a DRE or any additional experts?
- Was there bodycam/ dashcam?
- Are there pictures?
- Did the defendant become violent?

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## Problems

- Are there missing witnesses?
- Is there video no longer available?
- Were there any equipment failures?

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By the time your jury is seated, they should understand the law, be willing to follow it, and be anticipating all the facts.

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